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4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON  
6 AT TACOMA

7 RICHARD ROY SCOTT,

8 Plaintiff,

9 v.

10 KELLY CUNNINGHAM,

11 Defendant.

No. C11-6015 BHS/KLS

**ORDER DIRECTING PLAINTIFF TO  
SERVE AMENDED COMPLAINT**

12 In response to the Court's Order to Show Cause, Plaintiff has filed an Amended Civil  
13 Rights Complaint. ECF No. 13. Plaintiff is not proceeding *in forma pauperis* in this matter, so it  
14 is his obligation to serve copies of the Summons and Amended Complaint upon the named  
15 defendant. Plaintiff paid the filing fee of \$350.00 on December 9, 2011 (Receipt No.  
16 TAC009330).

17 Plaintiff is directed to Rule 4 of the Federal Rules of Civil Procedure, which sets forth the  
18 rules and procedure for service of the Summons and Complaint. Pursuant to Rule 4(m), Plaintiff  
19 must serve copies of the Summons and Amended Complaint upon the named defendant within  
20 120 days after the filing of the Amended Complaint. Unless the Plaintiff can show good cause  
21 for his failure to serve, the Court shall dismiss the action without prejudice. Fed. R. Civ. P.  
22 4(m). Because the Amended Complaint was submitted for this Court's review, Plaintiff's 120  
23 days to serve shall commence from the date of this Order.  
24

25 Plaintiff is further advised:  
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1                   **Filing and Service by Parties, Generally**

2                   All original documents and papers submitted for consideration by the Court in this case  
3 are to be filed with the Clerk of this Court. The originals of all such papers shall indicate in the  
4 upper right-hand corner the name of the Magistrate Judge to whom the copies are to be  
5 delivered. The papers shall be accompanied by proof that such documents have been served  
6 upon counsel for the opposing party (or upon any party acting pro se). The proof shall show the  
7 day and manner of service and may be written acknowledgment of service, by certificate of a  
8 member of the bar of this court, or by affidavit of the person who served the papers.  
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10                   **Motions**

11                   Any request for Court action shall be set forth in a motion, properly filed and served.  
12 The motion shall include in its caption (immediately below the title of the motion) a designation  
13 of the Friday upon which the motion is to be noted upon the court's calendar. That date shall be  
14 the third Friday following filing of the motion (fourth Friday for Motions for Summary  
15 Judgment). All briefs and affidavits in opposition to any motion shall be filed and served not  
16 later than 4:30 p.m. on the Monday immediately preceding the Friday appointed for  
17 consideration of the motion. If a party fails to file and serve timely opposition to a motion, the  
18 court may deem any opposition to be without merit. The party making the motion may file, not  
19 later than 4:30 p.m. on the Friday designated for consideration of the motion, a response to the  
20 opposing party's briefs and affidavits.  
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23                   **Motions for Summary Judgment**

24                   If one of the parties files a motion for summary judgment pursuant to Federal Rules of  
25 Civil Procedure 56, the opposing party should acquaint him/herself with Rule 56. Rule 56  
26 requires a nonmoving party to submit affidavits or other evidence in opposition to a motion for

1 summary judgment if the moving party has shown the absence of issues of material fact and an  
2 entitlement to judgment as a matter of law. A nonmoving party may not rest upon the mere  
3 allegations or denials of prior pleadings. Rather, successful opposition to a motion for summary  
4 judgment requires the nonmoving party to set forth, through affidavits or other evidence, specific  
5 facts showing a genuine issue for trial. Failure by the nonmoving party to oppose a summary  
6 judgment motion or to present counter evidence could result in the court accepting the moving  
7 party's evidence as the truth, and entering final judgment in favor of the moving party without a  
8 full trial. *Rand v. Rowland*, 113 F.3d 1520 (9th Cir. 1997).

10 **Direct Communications with District Judge or Magistrate Judge**

11 No direct communication is to take place with the District Judge or Magistrate Judge with  
12 regard to this case. All relevant information and papers are to be directed to the Clerk.

13 **Clerk's Action**

14 The Clerk is directed to send a copy of this Order and of the General Order issued by the  
15 Magistrate Judges to Plaintiff. The Clerk is also directed to send Plaintiff a summons form.  
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18 **DATED** this 29th day of March, 2012.

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21 Karen L. Strombom  
22 United States Magistrate Judge  
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